

ENFORCEMENT ACTION

Case Nos: 06/00167/ENURES
07/00146/ENBOC

Description: UNAUTHORISED OCCUPATION OF LODGES,
HOUSEBOATS, NARROWBOATS AND BOATS

Location(s): HARTFORD MARINA, BANKS END, WYTON, HUNTINGDON
LAND AT HARTFORD MARINA, BANKS END, WYTON,
HUNTINGDON

Owner(s): MR B PERRY AND OTHERS

Grid Ref: 526625 272514

Parish: HOUGHTON AND WYTON

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to update Members on enforcement issues at Hartford Marina which were last considered by the Panel on 23rd May 2011 (report attached as a green paper) when it was resolved that:

“the Chairman and Vice-Chairman of the Panel be requested to engage in further consultation with the owners of Hartford Marina and the Hartford Marina Community Association and in the light of a factual presentation by the Head of Planning Services on planning policy and processes, the owner/manager and/or occupiers of floating lodges, house-boats and other boats as at 17th August 2009 be invited to apply for planning permission to rationalise the current situation at Hartford Marina.”

2. UPDATE

- 2.1 The meeting took place on Monday 22nd August 2011. In addition to the Chair and Vice-Chair the meeting was also attended by Councillors Ablewhite, Bates and Williams; representatives of Houghton and Wyton Parish Council and 39 other members of the public including the Marina Owners and Manager and their representatives, a representative of the Residential Boat Owners Association, members of the Hartford Marina Community Association and Marina residents.
- 2.2 In a presentation, officers explained the planning status of the land, national and local planning policies which apply and they set out potential scenarios for the site as a whole and the implications for individual berth-holders. The proposal which had been included in the report to the Development Management Panel in May 2011 as a means of securing a gradual transition to holiday occupation which would comply with planning policy was also set out, namely:

- those who were berth holders in August 2009 could be granted personal planning permissions for their residential use (of berths) for as long as they remain occupiers; and
- when those occupiers move, the personal permission would end and use of the berth would thereafter be restricted to holiday accommodation which would be in accordance with planning policy.

2.3 The meeting was addressed by the Ward Councillors, Councillor Ablewhite and representatives of the Parish Council, the Marina owners, the Residential Boat Owners Association, Hartford Marina Community Association and some of the berth holders. There was a full and frank discussion of the issues.

2.4 It was agreed that:

- the effective date for any proposal to grant personal planning consent for residential use should be 22nd August 2011 (the date of the meeting) rather than August 2009;
- the presentation and notes of the meeting would be distributed;
- general advice would be made available for berth holders.

2.5 Since the meeting a number of legal and technical issues have been explored with the Marina owners' planning consultant; a draft list of berth holders as at 22nd August 2011 has been prepared and draft general advice for berth holders is being prepared. An application for a Certificate of Lawfulness for Existing Use or Development on one berth has been received by the Council.

2.6 The Owners' planning consultant has been advised to submit an application for the site as a whole but excluding any berths which are to be the subject of applications for Certificates of Lawfulness. Consideration of Certificate of Lawfulness applications could, if the berths were included in the overall application for legal reasons, delay the determination of an application where no claim of lawfulness is being made. Subject to identifying berths which are to be the subject of a Certificate application it is the expectation that the preparatory work that has now been undertaken will enable an application for the Marina as a whole to be submitted in the near future.

3.0 RECOMMENDATION

3.1 That the report be noted.

BACKGROUND PAPERS

Report to the Development Control Panel on 25 February 2008 and Minutes

Report to the Development Control Panel on 19 January 2009 and Minutes

Report to the Development Management Panel on 17 August 2009 and Minutes

Report to the Development Management Panel on 23 May 2011 and Minutes

Enforcement files reference 06/00167/ENURES and 07/00146/ENBOC

CONTACT OFFICER:

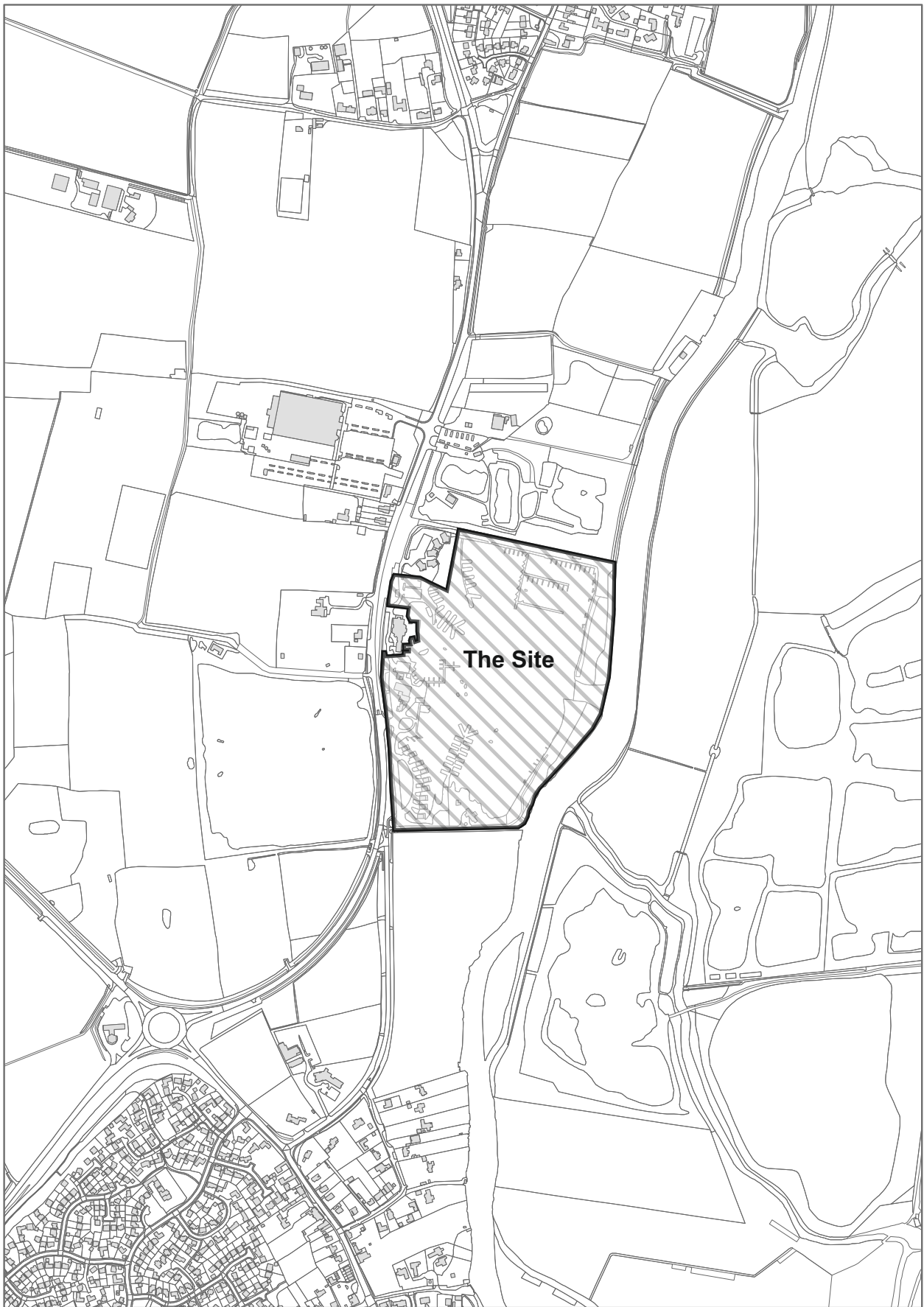
Enquiries about this report to:

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GREEN PAPERS FOLLOW

Drawing: Location Plan
Enforcement Action, Hartford Marina



Location: Houghton and Wyton
Item: 3

Drawing: Site Plan

Enforcement Action, Hartford Marina



Location: Houghton and Wyton

Item: 3

ENFORCEMENT ACTION

Case Nos: 06/00167/ENURES
07/00146/ENBOC

Description: UNAUTHORISED OCCUPATION OF LODGES,
HOUSEBOATS, NARROWBOATS, BOATS AND FLATS AS
SOLE OR MAIN RESIDENCES

Location(s): HARTFORD MARINA, BANKS END, WYTON, HUNTINGDON
LAND AT HARTFORD MARINA, BANKS END, WYTON,
HUNTINGDON

Owner(s): MR B PERRY AND OTHERS

Grid Ref: 526625 272514

Parish: HOUGHTON AND WYTON

1. PURPOSE OF REPORT

1.1 The purpose of this report is to update Members on enforcement issues at Hartford Marina which were last considered by the Panel on 17th August 2009.

2. BACKGROUND

2.1 The matter was first raised on 28th February 2008 when it was reported that enforcement investigations had identified a number of potential types of breach of planning control, including:

- floating lodges and houseboats occupied as sole or main residences which were either entirely unauthorised or contrary to a planning condition limiting occupation to holiday accommodation;
- narrowboats and boats occupied as sole or main residences without the benefit of planning permission; and,
- flats occupied as sole or main residences contrary to a planning condition.

A recommendation that the breaches be investigated further and addressed was endorsed.

2.1 As a result of a further report on 19th January 2009 the Panel resolved to set up a Member Working Group to consider planning policies, a way forward for the enforcement process and the implications of enforcement action for other Council services. Enforcement action was put on hold pending the Working Group's findings.

2.3 On 17th August 2009 the Panel received a report from the Hartford Marina Working Group (Cllrs. Ablewhite (Chair), P A Swales, G S E Thorpe and R J West). The Group recommended that a policy on the permanent occupation of marinas be prepared as part of the

forthcoming Development Management Development Plan Document (DM DPD) on the basis that this would be subject to public consultation and scrutiny and form part of the Local Development Framework. Members were aware that the DM DPD was not at that time due to be submitted to the Secretary of State until May/June 2010. They were also aware that a delay might result in additional occupiers becoming immune from enforcement action but, equally, taking action against occupiers might result in the relocation of a large number of families. The Working Party made three further recommendations:

- that the Owner/Manager and/or Occupiers of the Marina be invited to apply for planning permission as soon as sufficient weight could be given to an emerging planning policy on marinas to rationalise the current situation at Hartford Marina;
- that no action be taken against current residents in the interim on the understanding that they provide reasonable information on the status of their occupancy in the period prior to formalisation of the policy sufficient to enable Council Tax to be recovered from those who form part of the settled community; and
- that there should be no further expansion of the Marina without planning consent.

The Working Party's recommendations were accepted by the Panel.

3.0 UPDATE

- 3.1 The Development Management DPD: Proposed Submission was published in March 2010. It has not however been submitted to the Secretary of State because the Coalition Government announced soon after the election last year that it would be reviewing national planning policy. That inevitably brought some uncertainty about the direction of future policy and caused the Council to take stock of its intended programme for proceeding with the local planning policy framework. Work on the DM DPD was put on hold to await the outcome of the national review of planning policy. It was originally understood that this would be available by Spring 2011 but at the end of last year the Government announced that the review would not be carried out until Spring 2012.
- 3.2 The logic behind the Working Group's recommendation was that it would be best for all concerned if any action were taken or applications determined against the background of a policy which had been subject to public consultation, independent testing for soundness at an Examination in Public and could be given the full weight of being part of the 'development plan'. However, the unexpectedly prolonged delay is causing continuing uncertainty for berth holders and the Marina owners. In these circumstances it is considered that the best way to move matters forward within a reasonable timescale would be for applications to be made now, albeit before the adoption of a DM DPD policy.
- 3.3 The consideration of any application for planning permission would take into account, amongst other factors, policy H6 of the Development Management Development Plan Document: Proposed Submission 2010 which states:

"H6 Residential Moorings

Proposals for the permanent residential use of moorings will only be permitted where the site is of a scale and location consistent with the Settlement Hierarchy as set out in policy CS3 of the Core Strategy and the built-up area set out in policy E 2 and it can be demonstrated that the proposal:

- a. will not compromise leisure boat use; and
- b. will not impede navigation; or
- c. is essential for the management of recreational facilities.

For the purposes of this policy only the definition of the existing built-up area is extended to include any directly adjacent river or body of water.”

- 3.4 As part of the public consultation on the DM DPD: Proposed Submission two objections have been made to policy H6, by Hartford Marina and Natural England. One of the grounds for Hartford Marina’s objection is that the policy does not encourage residential moorings in suitable locations. The objections mean that the policy will be considered by the Inspector reporting on the document and there can therefore be no certainty as to the final form of the policy.
- 3.5 It is ultimately for the Marina owners and berth holders to decide if and when they make an application for planning permission and what they apply for. However, because the Panel previously advised that an application should await greater certainty about local policy on the residential occupation of marinas, it is appropriate to advise the Panel about the change in circumstances and give Members an opportunity to consider revising the advice about the timing of applications.
- 3.6 The decision on any planning application which is submitted will be taken by the Panel. In without prejudice, pre-application discussions officers have advised the Marina owners that that the site does not comply with the emerging policy because it is not in or adjacent to the existing built up area of Huntingdon/Hartford. The site is, and would therefore remain, in the open countryside where residential development is strictly controlled by virtue of national and local policies.
- 3.7 Given the circumstances of this particular marina, the Marina owners could be advised to consider making an application to allow those berth holders (i.e. the occupiers of floating lodges, houseboats and other boats) who were occupiers at the time of the last Panel report on 17th August 2009 to continue to occupy their berths as holiday or full-time residential occupation on a personal permission. If the ownership of an individual berth were to change in the future the permission would then be limited to occupation as holiday accommodation by the new occupiers. This would enable those who occupied berths at the time of the last Panel consideration to have residential use for as long as they want but, in the medium to long term, the unauthorised nature of the occupation should eventually be brought to an end. It would also give all concerned clarity over the value of the assets if they sell. So as not to be seen to reward those who have occupied berths on an unauthorised full-time residential basis nor penalise those who have restricted their occupation to holiday use, it is suggested that there should be no distinction between the two groups i.e. both sets of occupiers could occupy berths on a holiday or full-time residential basis. The only exception would be berths which have been continuously occupied on a full-

time residential basis for a length of time which gives them immunity from enforcement action – a period of 10 years in officers' view. For those berths separate applications for Certificates of Lawfulness could be submitted.

- 3.8 The position in respect of the flats, which had been built on land in separate ownership adjacent to the Marina is different. At the Panel meeting in August 2009 it was also resolved that that the Heads of Law, Property and Governance and Planning Services be authorised to take appropriate enforcement action, as sensitively as possible, to secure the cessation of any unauthorised permanent occupation of the flats. That remains the case and the action will now be pursued.

4.0 RECOMMENDATION

- 4.1 That the Owner/Manager and/or Occupiers of the Marina be invited to apply for planning permission to rationalise the current situation at Hartford Marina.

BACKGROUND PAPERS

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